

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SANDRA HOFFMAN and ROY HOFFMAN,

Plaintiffs.

05-CV 3438 (LDW)(MLO)

-against-

STIPULATION OF
DISCONTINUANCE

EQUINOX HOLDINGS, INC.,

Defendants.

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WHEREAS it appears that the named defendant in this action, EQUINOX HOLDINGS, INC., a foreign corporation, is not the proper defendant and that the proper defendant is Equinox Woodbury, Inc., a New York corporation that is a subsidiary of the defendant EQUINOX HOLDINGS, INC. and;

WHEREAS there is no diversity of citizenship between the plaintiff and Equinox Woodbury, Inc.,

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for all parties to this action that this action be and hereby is discontinued on the following conditions.

1- The plaintiff shall commence an action in Supreme Court, Nassau County (hereinafter referred to as "Nassau County Action") which make the same allegations against Equinox Woodbury, Inc. as were made against the defendant, EQUINOX HOLDINGS, INC. in this action

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10:02pm FROM BARRY McTIERMAN MOORE

2- The attorneys for the defendant EQUINOX HOLDINGS, INC. in this action shall accept service of the summons and complaint and appear on behalf of Equinox Woodbury, Inc. in the Nassau County Action and will admit that Equinox Woodbury, Inc. operated the facility where the plaintiff was injured and owned the machine on which she was injured.

3. That all discovery conducted in connection with this action shall be deemed discovery in connection with the Nassau County Action.

Dated: New York, New York
October 26, 2006

PRONER & PRONER
By: Tobi R. Salottolo
Tobi R. Salottolo
60 E. 42nd Street
New York, New York 10165
212-986-3030

BARRY, McTIERMAN & MOORE 10/30/06
By: Joseph DiGregorio (JD-8215)
Joseph DiGregorio
2 Rector Street
New York, New York 10006
212-608-8999

SO ORDERED

Dated: Central Islip, NY
11/2/06